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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,222	03/16/2004	Robert A. Koch	BS00097CIP2	2036

7590 07/24/2006

Scott P. Zimmerman  
P.O. Box 3822  
Cary, NC 27519

EXAMINER
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GAUTHIER, GERALD

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 07/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/801,222	KOCH, ROBERT A.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gerald Gauthier	2614	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claim(s) 1-21** are rejected under 35 U.S.C. 102(e) as being anticipated by  
Brisebois et al. (US 6,310,944 B1)

Regarding **claim(s) 1, 14, 20 and 21**, Brisebois discloses a method of providing communications services (FIG. 1 and column 1, lines 39-42), comprising the steps of:

- allowing a subscriber to create a data message (column 6, lines 11-22);
- allowing the subscriber to associate the data message to an originating party and to a recipient (column 6, lines 11-22);
- receiving a communication from the originating party (column 7, lines 21-34); and
- communicating the data message to the recipient via an Internet Protocol communications network (column 7, lines 21-34).

Regarding **claim(s) 2 and 15**, Brisebois discloses a method, wherein the step of receiving the communication comprises receiving a telephone call intended to terminate at a telephone number associated with the subscriber (column 7, lines 21-34).

Regarding **claim(s) 3 and 16**, Brisebois discloses a method, wherein the step of receiving the communication comprising receiving an electronic communication addressed to the subscriber (column 7, lines 21-34).

Regarding **claim(s) 4**, Brisebois discloses a method, wherein the step of allowing the subscriber to create the data message comprises allowing the subscriber to create an audio message (column 6, lines 11-22).

Regarding **claim(s) 5**, Brisebois discloses a method, wherein the step of allowing the subscriber to create the data message comprising allowing the subscriber to access a user interface via an Internet Protocol communications network, the user interface prompting the subscriber to create the data message and to associate the data message to a recipient (column 6, lines 11-22).

Regarding **claim(s) 6**, Brisebois discloses a method, wherein the step of allowing the subscriber to create the data message comprising allowing the subscriber to specify a time of day that the data message is communicated to the recipient (column 6, lines 11-22).

Regarding **claim(s) 7 and 17**, Brisebois discloses a method, further comprising the step of allowing the subscriber to preview the data message (column 6, lines 11-22).

Regarding **claim(s) 8**, Brisebois discloses a method, further comprising the step of allowing the subscriber to audibly preview the data message (column 6, lines 11-22).

Regarding **claim(s) 9**, Brisebois discloses a method, further comprising the step of allowing the subscriber to visually preview the data message (column 6, lines 11-22).

Regarding **claim(s) 10 and 18**, Brisebois discloses a method, further comprising the step of allowing the subscriber to attach a computer file to the data message (column 6, lines 11-22).

Regarding **claim(s) 11 and 19**, Brisebois discloses a method, wherein the step of allowing the subscriber to create the data message comprises allowing the subscriber to record audio content (column 6, lines 11-22).

Regarding **claim(s) 12**, Brisebois discloses a method, wherein the step of allowing the subscriber to create the data message comprises allowing the subscriber to input text (column 6, lines 11-22).

Regarding **claim(s) 13**, Brisebois discloses a method, further comprising the step of accepting voice commands from the subscriber when creating the data message (column 6, lines 11-22).

### ***Response to Arguments***

3. Applicant's arguments with respect to **claim(s) 1-21** have been considered but are moot in view of the new ground(s) of rejection.


### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2614

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system . Status information for published applications may be obtained from either Private PAIR or Public PAIR . Status information for unpublished applications is available through Private PAIR only . For more information about the PAIR system, see <http://pair-direct.uspto.gov> . Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) .

  
**GERALD GAUTHIER**  
**PATENT EXAMINER**

Gerald Gauthier  
Examiner  
Art Unit 2614

GG  
July 18, 2006